



Matthew W. Gissendanner
Assistant General Counsel

matthew.gissendanner@scana.com

May 11, 2018

VIA ELECTRONIC FILING

**The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210**

**RE: Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Inc. for Review and Approval of a Proposed Business Combination between SCANA Corporation and Dominion Energy, Inc., as May Be Required, and for a Prudency Determination Regarding the Abandonment of the V.C. Summer Units 2 & 3 Project and Associated Customer Benefits and Cost Recovery Plan
Docket No. 2017-370-E**

Dear Ms. Boyd:

Enclosed for filing, on behalf of South Carolina Electric & Gas Company and Dominion Energy, Inc., is a Response in Opposition and Objection to Petition to Intervene (Out of Time) of Transcontinental Gas Pipeline Company, LLC.

By copy of this letter, we are serving the parties of record with a copy of the enclosed documents. This information is being provided via electronic service pursuant to the Agreement for Electronic Service filed in the above-referenced dockets.

If you have any questions, please advise.

Very truly yours,

Matthew W. Gissendanner

MWG/kms
Enclosures

The Honorable Jocelyn G. Boyd

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cc: Shannon Bowyer Hudson, Esquire
Jeffrey M. Nelson, Esquire
Robert Guild, Esquire
Frank R. Ellerbe, III, Esquire
John H. Tiencken, Jr., Esquire
W. Andrew Gowder, Jr., Esquire
Michael N. Couick, Esquire
Christopher R. Koon, Esquire
Robert E. Tyson, Jr., Esquire
Scott Elliott, Esquire
Elizabeth Jones, Esquire
J. Emory Smith, Jr.
Richard L. Whitt, Esquire
James R. Davis, Esquire
John B. Coffman, Esquire
Emily E. Medlyn, Esquire
Matthew T. Richardson, Esquire
Camden N. Massingill, Esquire
Susan B. Berkowitz, Esquire
Stephanie U. Eaton, Esquire
Jenny R. Pittman, Esquire
Alexander G. Shissias, Esquire
William T. Dowdey
Christopher S. McDonald, Esquire
Damon E. Xenopoulos, Esquire
Derrick P. Williamson Esquire
J. Blanding Holman, IV, Esquire
Frank Knapp, Jr.
Lynn Teague
Robert D. Cook, Esquire
Michael T. Rose, Esquire
Lara B. Brandfass, Esquire
Wallace K. Lightsey, Esquire
Timothy S. Rogers, Esquire
(all via electronic service only w/enclosures)

Michael J. Anzelmo, Esquire
James N. Horwood, Esquire
Stephen C. Pearson, Esquire
William C. Cleveland, Esquire
Dino Teppara, Esquire
Jefferson D. Griffith III, Esquire
William C. Hubbard
Peter J. Hopkins, Esquire
Jessica R. Bell, Esquire
James F. Walsh, Jr., Esquire
James M. Griffin, Esquire
(all via U.S. First Class Mail and electronic service w/enclosures)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2017-370-E

In Re: Joint Application and Petition of
South Carolina Electric & Gas
Company and Dominion Energy, Inc.,
for review and approval of a proposed
business combination between SCANA
Corporation and Dominion Energy,
Inc., as may be required, and for a
prudency determination regarding the
abandonment of the V.C. Summer
Units 2 & 3 Project and associated
merger benefits and cost recovery
plans

**SCE&G AND DOMINION
ENERGY'S RESPONSE IN
OPPOSITION AND OBJECTION
TO PETITION TO INTERVENE
(OUT OF TIME) OF
TRANSCONTINENTAL GAS PIPE
LINE COMPANY, LLC**

South Carolina Electric & Gas Company ("SCE&G" or the "Company") and Dominion Energy, Inc. ("Dominion Energy"), pursuant to 10 S.C. Code Ann. Regs. 103-825(A) (2012), oppose and object to the Petition to Intervene (Out of Time) ("Petition") of Transcontinental Gas Pipe Line Company, LLC ("Transco"), which was filed with the Public Service Commission of South Carolina ("Commission") on May 7, 2018, in the above-captioned matter. For the reasons set forth below, SCE&G and Dominion Energy respectfully request that the Commission deny the Petition.

ARGUMENT

The grant or denial of a petition to intervene is within the sound discretion of the Commission. However, such discretion is bounded by guiding principles and factors. One such principle is that a party generally must have standing to intervene.

In addition, Commission regulations require that a petition to intervene set forth clearly and concisely facts from which the petitioner's right or interest can be determined, the grounds of the proposed intervention, and the position of the petitioner in the docket. **10 S.C. Code Ann. Regs. 103-825(A)(3)**. Petitioners must also comply with other Commission requirements regarding intervention, including filing petitions to intervene in a timely manner. In light of these considerations, the cursory and unsupported assertions presented by Transco in its Petition, and the failure to file a timely petition to intervene, no grounds exist to warrant granting intervention in this proceeding.

I. TRANSCO LACKS STANDING TO INTERVENE IN THIS MATTER.

As a threshold matter, Transco lacks standing to participate in this proceeding. *See Ex Parte Gov't Employee's Ins. Co.*, 373 S.C. 132, 644 S.E.2d 699 (2007). To have standing, a party must have a personal stake in the subject matter of the proceeding. *See Duke Power Co. v. S.C. Pub. Serv. Comm'n*, 284 S.C. 81, 326 S.E.2d 395 (1985). Under South Carolina law, the party asserting standing has the burden to establish an actual or likely "invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical." *Smiley v. S.C. Dep't of Health & Env'tl. Control*, 374 S.C. 326, 329, 649 S.E.2d 31, 32-33 (2007) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992) (internal quotations and citations omitted)); *Sea Pines Ass'n for the Protection of Wildlife, Inc. v. S.C. Dep't of Natural Resources*, 345 S.C. 594, 550 S.E.2d 287 (2001).

The person asserting standing also "must be affected in a personal and individualized way by the [regulatory] decision." *Smiley*, 374 S.C. at 330, 649 S.E.2d

at 33 (quoting *Lujan, supra*). The “imminent prejudice must be of a personal nature to the party laying claim to standing and not merely of general interest common to all members of the public.” *Sea Pines Ass’n*, 345 S.C. at 600, 550 S.E.2d at 291; *see also* Order No. 2010-221, dated March 16, 2010, Docket No. 2009-489-E (applying the law established in *Ex Parte Gov’t Employee’s Ins. Co.* and *Duke Power* in ruling on petition to intervene); Order No. 2012-495, dated July 13, 2012, Docket No. 2012-203-E (applying the law established in *Smiley* and *Sea Pines Ass’n* in ruling on petition to intervene).

Despite the requirements imposed by these clear standards, Transco has made no showing that it is likely to suffer some “actual or imminent harm” if the proposed business combination between SCANA Corporation and Dominion Energy is approved. In fact, Transco makes no concrete allegation of injury *at all*, but only generally claims that it “may be financially impacted” and that its rights and interests “may be substantially affected by decisions and/or orders issued by this Commission in this proceeding.” Pet. at ¶¶2, 5 (emphasis added). Rather, it appears that Transco “merely fear[s] the prospect of future harm,” but its generalized assertions of prospective concerns “fall[] far short of the standard of ‘concrete and particularized and ... actual or imminent’ harm” *Beaufort Realty Co. v. Beaufort Cty.*, 346 S.C. 298, 303, 551 S.E.2d 588, 590 (Ct. App. 2001) citing *Lujan*, 504 U.S. at 560; *see also Duke Power Co., supra* (holding that ratepayers’ mere allegation that future rates may be impacted by present actions was insufficient to confer standing).

Furthermore, the fact that Transco provides natural gas transportation and storage services to SCE&G as its customer is insufficient to demonstrate that Transco

has a "personal stake" in these proceedings. *See ATC South, Inc. v. Charleston Cnty.*, 380 S.C. 191, 198, 669 S.E.2d 337, 340 (2008) (holding that where "the potential injury or prejudice is only an increase in business competition, such injury or prejudice is insufficient to confer standing" and that "a competitor challenging legislative or executive action solely to protect its own economic interests lacks standing").

At bottom, the paucity of supported arguments presented by Transco simply is insufficient to satisfy the elements of standing, which "are not mere pleading requirements but rather an indispensable part of the plaintiff's case." *Lujan*, 504 U.S. at 561. Because the Petition does not articulate any concrete injury or harm that has occurred or likely will occur as a result of the relief sought in this docket, the Commission therefore should deny the Petition for lack of standing.

II. TRANSCO'S PETITION FAILS TO SATISFY THE COMMISSION'S PLEADING REQUIREMENTS

Similarly, the Petition should be denied for the failure to state sufficient facts from which Transco's alleged right or interest can be determined. The Commission's requires as follows with respect to petitions to intervene:

A Petition to Intervene in a proceeding before the Commission shall set forth clearly and concisely:

- (a) The facts from which the nature of the petitioner's alleged right or interest can be determined;
- (b) The grounds of the proposed intervention;
- (c) The position of the petitioner in the proceeding.

10 S.C. Code Ann. Regs. 103-825(A).

As discussed above, Transco neither presents any facts to support its *ipse dixit* statements nor sets forth details sufficient to demonstrate that it “may be substantially affected by decisions and/or orders issued by this Commission in this proceeding” or that it has a “direct and substantial interest in the subject matter of this Docket.” Pet. at ¶¶5-6. The Petition therefore should be dismissed as a matter of law because Transco has failed to identify any facts related to its alleged right or interest, grounds for its proposed intervention, or its proposed position in this proceeding.

III. TRANSCO'S PETITION IS UNTIMELY

Finally, Transco's Petition should be denied on the basis that it was not timely filed with the Commission. Pursuant to the Revised Notice of Filing (“Notice”) issued by the Clerk's Office of the Commission on February 6, 2018, petitions to intervene were required to be filed on or before April 12, 2018. Nevertheless, Transco did not file its Petition until May 7, 2018, but now seeks to be excused from its negligence on the sole basis that it “does not normally participate in Dockets at this Commission and ... is not familiar with the procedures of this Commission.” Pet. at ¶7. Even setting aside the “well-settled maxim that ignorance of the law is no excuse,” S.C. *Wildlife & Marine Res. Dep't v. Kunkle*, 287 S.C. 177, 179, 336 S.E.2d 468, 469 (1985), Transco has not denied that it was aware of these proceedings or of the clear requirements of the Notice. See *Smothers v. U.S. Fid. & Guar. Co.*, 322 S.C. 207, 210-11, 470 S.E.2d 858, 860 (Ct. App. 1996) (“Everyone is presumed to have knowledge of the law and must exercise reasonable care to protect his interests.”). Nor has Transco presented any other reasonable basis sufficient to support excusing it from its

obligation to comply with the Commission's instructions and procedures. For these reasons, Transco's Petition should be denied.

CONCLUSION

Based on the foregoing, Transco has failed to meet the threshold required to qualify as an intervenor in this proceeding and its Petition to Intervene must be denied. Therefore, SCE&G and Dominion Energy respectfully request that the Commission deny the Petition and grant such other and further relief as is just and proper.

[SIGNATURE PAGES FOLLOW]

Respectfully submitted,



K. Chad Burgess
Matthew W. Gissendanner
South Carolina Electric & Gas Company
Mail Code C222
220 Operation Way
Cayce, SC 29033
(803) 217-8141 (KCB)
(803) 217-5359 (MWG)
chad.burgess@scana.com
matthew.gissendanner@scana.com

Mitchell Willoughby
Willoughby & Hoefer, P.A.
Post Office Box 8416
Columbia, SC 29202
(803) 252-3300
mwilloughby@willoughbyhoefer.com

*Attorneys for South Carolina Electric & Gas
Company*

Cayce, South Carolina
Date: May 11, 2018



J. David Black
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, South Carolina 29201
(803) 771-8900
dblack@nexsenpruet.com

Lisa S. Booth
Dominion Energy Services, Inc.
120 Tredegar Street
P.O. Box 26532
Richmond, Virginia 23261-6532
(804) 819-2288
lisa.s.booth@dominionenergy.com

Joseph K. Reid, III
Elaine S. Ryan
McGuireWoods LLP
Gateway Plaza
800 East Canal Street
Richmond, Virginia 23219-3916
(804) 775-1198 (JKR)
(804) 775-1090 (ESR)
jreid@mcguirewoods.com
eryan@mcguirewoods.com

Ellen T. Ruff
McGuire Woods LLP
201 North Tryon Street, Suite 3000
Charlotte, North Carolina 28202-2146
(704) 353-6243
eruff@mcguirewoods.com

Attorneys for Dominion Energy, Inc.

Columbia, South Carolina
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